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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,994	06/01/2001	Laurent Herrmann	PHFR 000059	3143

24737 7590 03/09/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,994

Applicant(s)

HERRMANN ET AL.

Examiner

Ramy M Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This communication is responsive to the amendment filed on November 24, 2004.

Applicant amended claim 1, and added new claims 2-8. Claims 1-8 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 4-8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant failed to mention “managing and controlling network resources” as claimed in claim 1 step (c), in the specification. Applicant also failed to mention “handling a delivery monitoring service” as claimed in claim 1 step (c), in the specification. Furthermore, applicant failed to mention “statistical processing” and how it relates to managing and controlling network resources as claimed in claim 1 step (c), in the specification. It would require undue experimentation for one of ordinary skill in the art to determine the details of network resource managing, network resource controlling, and handling a delivery monitoring service.

Claims 4-8 depend on the features of claim 1 step (c) and are therefore rejected as failing to comply with the enablement requirement, as well.

Applicant is reminded that no new matter is allowed in an amendment to the specification under 35 USC 132 and 37 CFR 1.118 (a).

4. Claim 3 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant failed to mention "some parameters" as claimed in line 4, in the specification. Applicant also failed to mention how some of these parameters are controlled as claimed in line 4, in the specification. It would require undue experimentation for one of ordinary skill in the art to determine the details of controlling some parameters, because firstly the type of parameters are not disclosed, and secondly the type of control operations are not disclosed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "interactive processing system" in claims 1-8 is a relative term which renders the claim indefinite. The term "interactive" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The American Heritage Dictionary defines interactive as: “of or relating to a program that responds to user activity” (4th edition, pg 722). This means that some sort of input/output (interactive) environment is present which is commonly known as GUI (Graphical User Interface). Interactive also means that network communication occurs at the Application Layer (Layer 7) of the OSI reference model. Nowhere in the specification does the applicant discuss such an interactive environment.

On page 1 line 28 of the specification, applicant states “data having real time properties (such as interactive audio & video)”. However, this is just a description of the data properties and not a description of the invention of claims 1-8. The invention relates to the interface device of claim 1 which utilizes the RTP protocol to format the data packets. This type of interface device operates at the Transport Layer (Layer 4) of the OSI reference model. Therefore the word “interactive” cannot be used to describe the invention because it denotes operation at the Application Layer and not the Transport layer.

7. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The term “ready” in step a) makes the claim limitation unclear. It is not clear whether the packets ‘*are readied*’, which implies further formatting; or if the packets ‘*are ready*’ which simply means at that point the packets are ready to be sent.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No 6,842,447) in view of Mecayten (US Patent No 6,725,191).

10. In reference to claim 1, Cannon teaches an interactive processing system comprising at least a user terminal in a user location, a server coupled to said user terminal, a communication network, and an interface device located between said network and said user terminal, said system being characterized in that said interface device comprises (Figures 1 & 2):

(a) means for formatting incoming data received from said terminal into packets identified by headers and ready to be sent towards said network (column 2 lines 30-42 and column 5 lines 60-63);

(b) means for identifying packets received from the network and forwarding them to the terminal (column 2 lines 30-42 and column 5 lines 60-67);

Cannon fails to explicitly teach (c) means for managing and controlling the network resources and handling a delivery monitoring service of said packets on the network according to said resources, comprising: a receiving stage for receiving incoming packets from the network; an analysis stage for analyzing the incoming packets; a statistical processing stage for computing statistics based on analysis provided by the analysis stage; and a formatting stage for creating packets to be sent toward said network. However, Mecayten teaches real time transmission over

the Internet in accordance with the RTP protocol. Mecayten discloses a network monitor, which is in accordance to with RTCP control protocol, handling monitoring service of the incoming data packets so that information can be analyzed to determine data rates and packet loss rates (column 1 lines 45-65, column 7 lines 37-56, column 8 line 65 – column 9 line 14 and column 9 lines 52-58).

It would have been obvious for one of ordinary skill in the art to modify Cannon by managing and controlling the network resources and handling a delivery monitoring service of said packets on the network according to said resources, comprising: a receiving stage for receiving incoming packets from the network; an analysis stage for analyzing the incoming packets; a statistical processing stage for computing statistics based on analysis provided by the analysis stage; and a formatting stage for creating packets to be sent toward said network as per the teachings of Mecayten. One would be motivated to do since it is desirable for packet information be analyzed to determine data rates and packet loss rates.

11. In reference to claim 2, Cannon teaches the interactive system of claim 1, wherein means for formatting incoming data into packets identified by headers is configured to:

format the incoming data into real-time protocol (RTP) packets; and send the RTP packets with RTP headers towards the network (column 2 lines 30-42 and column 5 lines 60-63).

12. In reference to claim 3, Cannon in view of Mecayten teaches the interactive processing system of claim 1, wherein the means for identifying packets received from the network and forwarding them to the terminal is configured to: receive real-time protocol (RTP) packets from the network; control some parameters; and store data in view of the transmission to a current

application running on terminal (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14 and column 9 lines 52-58).

13. In reference to claim 4, Cannon in view of Mecayten teach the interactive processing system of claim 1, wherein the receiving stage receives real-time control protocol (RTCP) packets arriving from the network (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14).

14. In reference to claim 5, Cannon in view of Mecayten teach the interactive processing system of claim 4, wherein the analysis stage analyzes the (RTCP) packets arriving from the network (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14).

15. In reference to claim 6, Cannon in view of Mecayten teach the interactive processing system of claim 5, wherein the statistics processing stage computes statistics when real-time protocol (RTP) packets are received from the network and when RTCP packets are received or sent (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14).

16. In reference to claim 7, Cannon in view of Mecayten teach the interactive processing system of claim 6, wherein the statistics computed when real-time protocol (RTP) packets are received from the network comprise at least one of a number of RTCP packets received, packet loss, and delays (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14).

17. In reference to claim 8, Cannon in view of Mecayten teach the interactive processing system of claim 6, wherein the statistics computed when RTCP packets are receive or sent comprise an error rate (Mecayten, column 7 lines 37-56, column 8 line 65 – column 9 line 14).

Response to Amendment

18. Examiner acknowledges the amendment filed on November 24, 2004. Applicant amended claim 1, and added new claims 2-8.

Response to Arguments

19. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
March 3, 2005


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